

REMARKS

The Official Action mailed October 1, 2008, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on February 25, 2005; August 4, 2005; February 3, 2006; July 28, 2006; April 19, 2007; and October 19, 2007.

Claims 25-34, 37-48, 53-101, 111-164, 183-201, 203, 205 and 209-211 were pending in the present application prior to the above amendment. Claims 25-28, 33, 34, 41-44, 57-74, 93-101, 129-146, 201, 203, 205 and 209-211 have been canceled without prejudice or disclaimer. Accordingly, claims 29-32, 37-40, 45-48, 53-56, 75-92, 111-128, 147-164 and 183-200 are now pending in the present application, of which claims 29, 31, 37, 39, 45, 47, 53 and 55 are independent. Of the still pending claims, claims 75-79, 81-88, 90-92, 111-115, 117-124, 126-128, 147-151, 153-160, 162-164, 183-187, 189-196 and 198-200 have been withdrawn from consideration by the Examiner. Accordingly, claims 29-32, 37-40, 45-48, 53-56, 80, 89, 116, 125, 152, 161, 188 and 197 are currently elected in the present application, of which claims 29, 31, 37, 39, 45, 47, 53 and 55 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 2 of the Official Action rejects claims 25, 26, 29, 30, 33, 34, 41, 42, 45, 46, 62, 80, 98, 152, 209 and 211 as obvious based on the combination of U.S. Patent No. 6,414,280 to Nishitani, U.S. Patent No. 6,060,697 to Morita and U.S. Patent No. 5,006,695 to Elliott. Paragraph 3 of the Official Action rejects claims 27, 28, 31, 32, 37-40, 43, 44, 47, 48, 53-56, 71, 89, 116, 125, 134, 143, 161, 188, 197, 201, 203, 205 and 210 as obvious based on the combination of Nishitani, Morita, Elliott, U.S. Patent No. 6,461,439 to Granneman and U.S. Patent No. 6,399,921 to Johnsgard. The

Applicant respectfully traverses the rejection because the Official Action has not made a *prima facie* case of obviousness.

As stated in MPEP §§ 2142-2143.01, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some reason, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some reason to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The prior art, either alone or in combination, does not teach or suggest all the features of the independent claims. Independent claims 29, 31, 37, 39, 45, 47, 53 and 55 recite that each first light pulse has a cycle of one second or shorter, and that each second light pulse has a cycle of one second or longer. For the reasons provided below, Nishitani, Morita, Elliott, Granneman and Johnsgard, either alone or in combination, do not teach or suggest the above-referenced features of the present invention.

The Official Action asserts that Nishitani teaches "the light source in a first stage wherein the switch is turned on within a cycle of one second or shorter" (page 2, Paper No. 20080926). The Applicant respectfully disagrees and traverses the assertions in the Official Action.

Initially, it is noted that the Official Action does not provide any citation to Nishitani to support the assertion. In any event, the Applicant has reviewed Nishitani and believes there is no such teaching or suggestion in the reference. The Applicant respectfully submits that the deficiencies in Nishitani are not cured by Morita, Elliott, Granneman and Johnsgard, either alone or in combination.

Also, the Official Action concedes that "Nishitani does not explicitly show a plurality of light pulses wherein each light pulse has a cycle of one second or longer" (Id.). Without any specific references to Nishitani, Morita and Elliott in support and without statements which establish the level of ordinary skill in the art at the time of the present invention, the Official Action asserts that "it would have been obvious to ... adapt Nishitani with the plurality of light pulses having one second or longer light pulses in the respective first and second stages to quickly achieve and maintain the desired heating temperatures without overheating" (page 3, Id.). The Applicant respectfully disagrees and traverses the assertions in the Official Action.

Again, it is noted that the Official Action does not provide any citation to Nishitani, Morita and Elliott to support the assertion. In any event, the Applicant has reviewed Nishitani, Morita and Elliott and believes there is no such teaching or suggestion in the reference. The Applicant respectfully submits that the above-referenced deficiencies in Nishitani, Morita and Elliott are not cured by Granneman and Johnsgard, either alone or in combination.

Further, the Supreme Court in KSR noted that the analysis supporting a rejection under 35 U.S.C. § 103 should be made explicit (KSR International Co. v. Teleflex Inc., 550 U.S. ___, 82 USPQ2d 1385). The Court quoting In re Kahn (441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)) stated that "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." KSR, 550 U.S. at ___, 82 USPQ2d at 1396. In the present application, the Official Action appears to contain mere conclusory statements, for example, at

pages 2-3 (Id.) and as noted in detail above. The Official Action has not set forth articulated reasoning with some rational underpinning to support the assertion of *prima facie* obviousness.

In the "Response to Arguments" section, the Official Action refers to teachings in Nishitani concerned with reaching a particular temperature "in a matter of seconds" (page 5, Id.); however, the Official Action has not demonstrated why one of ordinary skill in the art at the time of the present invention, upon reviewing the prior art of record, would have implemented a method where each first light pulse necessarily has a cycle of one second or shorter, and where each second light pulse necessarily has a cycle of one second or longer. It appears the Official Action has included knowledge beyond that which was within the demonstrated level of ordinary skill in the art at the time the claimed invention was made. Furthermore, the Official Action appears to have made inferences that could have only been gleaned from Applicant's disclosure.

Therefore, the Applicant respectfully submits that Nishitani, Morita, Elliott, Granneman and Johnsgard, either alone or in combination, do not teach or suggest that each first light pulse has a cycle of one second or shorter, and that each second light pulse has a cycle of one second or longer.

Since Nishitani, Morita, Elliott, Granneman and Johnsgard do not teach or suggest all the claim limitations, a *prima facie* case of obviousness cannot be maintained. Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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